



PUBLIC NOTICE

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DA 03-376

Released: February 13, 2003

PLEADING CYCLE ESTABLISHED FOR COMMENTS ON
FIBER TECHNOLOGIES NETWORKS, L.L.C. PETITION FOR PREEMPTION
PURSUANT TO SECTION 253

WC DOCKET NO. 03-37

Comments Due: **March 17, 2003**

Reply Comments Due: April 1, 2003

On January 30, 2003, Fiber Technologies Networks, L.L.C. (Fibertech) filed a petition pursuant to section 253 of the Communications Act. Fibertech requests that the Commission preempt the Borough of Blawnox, Pennsylvania from requiring Fibertech to pay the fees required by its Rights-of-way Ordinance for Fibertech's aerial network that passes through the Borough on State Highway Department rights-of-way.. Fibertech argues that the ordinance violates section 253 because it is an unlawful barrier to entry.

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. See 47 C.F.R. §§ 1.1200, 1.1206. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. See 47 C.F.R. § 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b).

Pursuant to Section 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on the petition for preemption on or before **March 17, 2003** and reply comments of or before April 1, 2003. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Suite TW-A325, Washington, DC 20554. Two (2) courtesy copies must be delivered to Janice M. Myles, jmyles@fcc.gov, Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, 445 12th Street, SW, Suite 5-C327, Washington, DC 20554 and one (1) copy must be sent to Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number

referenced in the caption. In completing the transmittal screen, commenters should include their **full** name, U.S. Postal Service mailing address, and **the** applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. **If** more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight **U.S.** Postal Service mail (although **we** continue to experience delays in receiving U.S. Postal Service mail).

(1) The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

(2) Commercial overnight mail (other than **U.S.** Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

(3) U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals **11,445** 12th Street, **SW**, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals 11, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail quaIexint@aol.com.

For further information regarding this proceeding contact Janice M. Myles jmyles@FCC.gov, Competition Policy Division, Wireline Competition Bureau (202) 418-1580.

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